

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

Eugene Marvin Ross (deceased) by his)	
Personal Representative Andrew Ross and)	CIVIL ACTION NO. _____
Shelby Ross,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
Lowe's Home Centers, LLC,)	
)	
_____ Defendant.)	

NOTICE OF REMOVAL

Defendant Lowe's Home Centers, LLC ("Lowe's), by counsel, hereby removes Case No. 2022-CP-23-01236 from the Court of Common Pleas, County of Greenville, South Carolina, to the United States District Court for the District of South Carolina, Anderson Division, pursuant to §§ 1332, 1441 and 1446 of Title 28 of the United States Code.

1. On March 4, 2022, Plaintiff filed a Complaint in the Greenville County Court of Common Pleas. This Complaint was served on Lowe's on March 10, 2022, a true and correct copy of which is attached hereto as Exhibit A.

2. The Complaint alleges that Eugene Ross was shopping at a Lowe's store at 6068 Calhoun Memorial Highway in Easley, South Carolina on December 2, 2021, when his foot struck debris causing him to fall and sustain a fracture to his left hip. (Compl. ¶¶ 3 and 4). Further, that this injury led to his death on December 17, 2021. (Compl. ¶¶ 3 and 4).

3. Plaintiffs are seeking actual and punitive damages for the wrongful death of Eugene Ross. (Compl. ¶¶ 17, 18, and 4).

4. This Notice of Removal is timely, in accordance with 28 U.S.C. §1446(b)(1), because less than thirty (30) days have elapsed since receipt by Defendant Lowe's of the first pleading served on Defendant.

5. Pursuant to 28 U.S.C. §1446(a), a copy of all process, pleadings, and orders served upon Lowe's in said action is attached hereto as Exhibit A.

6. Venue for this removal action is proper pursuant to 28 U.S.C. §1441(a), because although the original action was filed in Greenville County, South Carolina, the alleged incident on which the Plaintiff's claim is based, occurred at a Lowe's store located at 6068 Calhoun Memorial Highway, Easley, South Carolina, which is in Pickens County. Therefore, the alleged incident on which the Plaintiff's claim is based occurred in this Division, at 6068 Calhoun Memorial Highway, in Easley, South Carolina. (Compl. ¶ 3).

7. This is a civil action in which there is complete diversity of citizenship between Plaintiff and Defendant. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1441 because it could have been filed in this Court under 28 U.S.C. § 1332.

8. The Plaintiffs are citizens of Greenville County, South Carolina. (Compl. ¶¶ 1 and 2).

9. Lowe's Home Centers, LLC is and was at the time of the filing of the Complaint a foreign limited liability company whose sole member is a corporation incorporated in North Carolina with its principal place of business in North Carolina. *See*, Defendant's Answers to Local Rule 26.01 Interrogatories. Accordingly, Lowe's Home Centers, LLC is not a citizen of South Carolina.

10. Plaintiffs allege that Eugene Marvin Ross (deceased) suffered a personal injury, and ultimately a wrongful death, for which Plaintiffs seek actual and punitive damages. (Compl. ¶¶ 17, 18, and 4, and prayer for relief).

11. The amount in controversy exceeds \$75,000.00. (Compl. ¶¶ 17, 18, and 4, and prayer for relief). Plaintiffs' Complaint contains no limitation of damages, and in fact seeks actual damages for wrongful death, *inter alia*, "personal injury," "pain and suffering," "mental anguish," "loss of enjoyment of life," "medical expenses," and "funeral expenses". (Compl. ¶ 17). In addition to these alleged actual damages, Plaintiffs also seek punitive damages. (Compl. ¶ 18).

12. Pursuant to 28 U.S.C. §1446(d), written notice of such filing will be given promptly to the Plaintiffs by the undersigned counsel for Defendant, and copies of this Notice will be filed promptly with the Clerk of Court for Common Pleas for Greenville County, South Carolina.

13. This case is being removed subject to and without waiver of any challenges that Defendant Lowe's may have as to any claims or defenses that may be available to it.

WHEREFORE, because this Court has jurisdiction over this action pursuant to 28 U.S.C. §1332, removal of the above-styled case to this Court is appropriate.

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